IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 23854 of 2007(M)

PETITIONER:

M/S.SURYA PETROLEUMS PVT.LTD.,
ARUVITHARA P.O., ERATTUPETTA, KOTTAYAM DISTRICT,
REPRESENTED BY ITS MANAGING DIRECTOR,
JOSE JOSEPH.

BY ADV. SRI.V.P.SUKUMAR
SRI.JAIRAM.V.MENON

RESPONDENTS:

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1. THE SALES TAX OFFICER,
PALA.

2. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES,
KOTTAYAM.

3. THE STATE OF KERALA REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

BY G.P. SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.23854 of 2007

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Dated this the 6th day of August, 2007.

JUDGMENT

The petitioner is challenging assessment and demand of interest under Section 23(3)/23(3A) of the KGST Act. Original levy was subject matter of appeal and the appellate authority gave certain directions in regard to turnover. According to petitioner, petitioner is entitled to consequential reliefs in respect of interest also. Inspite of Ext.P8 order in appeal for both the years, the Assessing Officer has not recalculated interest for the years 2001-2002 and 2002-2003 is petitioner's grievance. In the circumstances, I direct the Assessing Officer to consider petitioner's objections with reference to factual position and the statutory provisions namely, Sections 23(3) and 23(3A) of the KGST Act, issue a proposal for interest showing the amount of tax due, whether it be admitted tax or assessed tax, the rate of interest and the period for which interest is payable, to enable the petitioner to file detailed reply. The Assessing Officer is directed to pass fresh order rectifying revised orders issued pursuant to order in appeal, within a period of six weeks from now. The petitioner will produce copy of this judgment for compliance. If petitioner has grievance against the rectified orders

issued by the officer, petitioner can file appeals on levy of interest before the appellate authority as order revising the assessment or even an order of rectification are both appealable.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms